

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

SCARLET HONOLULU, INC., ET AL.,)
Plaintiffs,) Case No. 21-CV-00457-MWJS-KJM
vs.) October 8, 2024
HONOLULU LIQUOR COMMISSION, ET) 1:14 p.m.
AL.,)
Defendant.) U.S. District Court
300 Ala Moana Boulevard
Honolulu, HI 96850

TRANSCRIPT OF SETTLEMENT ON THE RECORD
BEFORE THE HONORABLE KENNETH J. MANSFIELD
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

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1 OCTOBER 8, 2024

1:14 P.M.

2 THE CLERK: The United States District Court for the
3 District of Hawaii, with the Honorable Kenneth J. Mansfield,
4 United States Magistrate judge presiding, is now in session.

5 MR. SMITH: Good afternoon.

6 THE CLERK: I'll call the case.

7 MR. SMITH: Sorry.

8 THE CLERK: That's okay. Civil number 21-00457MWJS-
9 KJM, Scarlet Honolulu, Inc., et al. v. Honolulu Liquor
10 Commission. This case has been called for a settlement on the
11 record.

12 Counsel, please make your appearances beginning with
13 Plaintiff.

14 MR. DIPASQUALE: Good afternoon. James DiPasquale for
15 the Plaintiffs. And I am here with both Robert Baldwin and
16 Walter Henriquez.

17 THE COURT: All right. Good afternoon to all of you.

18 MR. SMITH: Lex Smith for the Honolulu Liquor
19 Commission. Mr. Salvador Petilos is in the courtroom, the
20 Director of the Liquor Commission. My co-counsel Aaron Mun and
21 Zachary Shikada are also present.

22 THE COURT: All right. Good afternoon to each of you
23 as well.

24 So you folks have notified first Judge Smith and then
25 me that you have reached a settlement of the ongoing trial. So

1 we've taken a pause to place that settlement on the record.
2 Which counsel would like to place the material terms on the
3 record? Mr. Smith? Go ahead.

4 MR. SMITH: Payment from the City to the Defendants
5 (sic) of \$670,000. The cases that will be dismissed are the
6 instant case, as well as the UIPA lawsuit filed by Mr.
7 Sobieralski and the two OIP appeals that Mr. Sobieralski has
8 pending in the Office of Information Practices.

9 The parties will work together for language that will
10 provide for the implementation on a reasonable schedule of the
11 recommendations of the Hui Chen Report or other alternative ways
12 to achieve those objectives, as well as any objectives that have
13 not yet been achieved from past audits of the Liquor Commission.
14 What did I forget?

15 Oh, so additionally, Mr. Sobieralski -- the Plaintiffs
16 are representing, and we will ask Mr. DiPasquale to make this
17 representation on the record, that they are confident that Mr.
18 Sobieralski will cease making posts on the Internet regarding the
19 Liquor Commission and will stop making UIPA requests to the City
20 regarding the same. I said payment to Defendants. I'm not going
21 to pay myself. Payment to the Plaintiffs of \$670,000.

22 THE COURT: Okay. And then I assume standard release.

23 MR. SMITH: Standard mutual releases.

24 THE COURT: Mutual. So the City's going to release?
25 It's not often mutual with the Government on one side.

1 MR. SMITH: You're right. And the City has not made
2 any claims here, so it will be a standard release --

3 THE COURT: Unilateral release.

4 MR. SMITH: -- unilateral release and dismissal.

5 THE COURT: And each side to bear its own fees and
6 costs?

7 MR. SMITH: That's correct.

8 THE COURT: Dismissal with prejudice.

9 MR. SMITH: Right.

10 THE COURT: Okay. And then on your end, Mr. Smith,
11 this is ultimately subject to formal City Council approval?

12 MR. SMITH: That's correct, Your Honor.

13 THE COURT: Okay. Thank you. All right. With all of
14 that, Mr. DiPasquale, do you have any edits or additions to the
15 terms that Mr. Smith put on the record?

16 MR. DIPASQUALE: Subject to any clarifications and
17 final revisions that are to be entered into the -- into by the
18 parties formally.

19 The one thing I would like to address is that there
20 will be a reporting requirement. I believe we discussed a
21 quarterly reporting requirement to Your Honor, to facilitate the
22 review and implementation to the extent that is necessary.

23 With respect to Mr. Sobieralski, I did have a phone
24 conversation with him, and he has agreed to cease the filing of
25 UIPA requests in connection with this and other matters related

1 to the Liquor Commission. He has also agreed that, subject to
2 Defense counsel's representation that his firm would forego, and
3 certainly release any claims that they might otherwise have
4 against him independently, he will agree in good faith to refrain
5 from all actions set forth on the record moments earlier by Mr.
6 Smith.

7 THE COURT: All right. Any quarrel with those
8 additions, Mr. Smith?

9 MR. SMITH: Those are fine with us.

10 THE COURT: Okay. Let me ask each of you, Mr.
11 DiPasquale, do you have authority to agree to these settlement
12 terms?

13 MR. DIPASQUALE: Yes.

14 THE COURT: Okay. And you turned to Mr. Baldwin. I'm
15 not sure exactly who -- if there's a client rep here who can --
16 Mr. Baldwin, I know you the best. Mr. Baldwin, do you agree to
17 these settlement terms?

18 MR. BALDWIN: I do.

19 THE COURT: Okay. Thank you. Walter -- Mr. Enriquez,
20 do you agree to these settlement terms?

21 MR. ENRIQUEZ: I do.

22 THE COURT: All right. Thank you. And Mr. Smith, on
23 behalf of the Liquor Commission, do you agree to these settlement
24 terms?

25 MR. SMITH: Yes. Subject to approval by the City

1 Council.

2 THE COURT: Right. Okay. So, thank you.

3 I do find, based upon all of your statements, the
4 parties have agreed to the essential terms of a valid and
5 enforceable settlement agreement -- conditional settlement
6 agreement, I should say. The one condition being City Council
7 approval.

8 So I will, I guess, in a sense, stay your trial
9 proceedings -- and I did speak with Judge Smith a few minutes ago
10 -- to allow that process to go forward. It usually takes roughly
11 two months, sometimes a little faster, sometimes a little longer.
12 And so we'll work -- all of you will work together, and quickly
13 and in earnest to achieve those settlement conditions.

14 Should we set -- I typically -- I've done other
15 settlements with Mr. Smith -- a status conference with me in a
16 month or so, you know, to keep tabs on that process? What makes
17 sense on your end, Mr. Smith?

18 MR. SMITH: Three weeks or a month sounds right to me.

19 THE COURT: Okay. Let me see if we can possibly pull
20 up my calendar, and you guys can too. And we'll look for
21 something in like the second week of November, maybe for a Zoom
22 status conference on where that process stands. How about
23 Wednesday, November 6th, at 9:30?

24 MR. SMITH: That's fine for us.

25 MR. DIPASQUALE: I do have another hearing that

1 morning, at that time.

2 THE COURT: How about the 7th, Mr. DiPasquale?

3 MR. DIPASQUALE: I'm available.

4 THE COURT: Okay. Mr. Smith doesn't have a calendar,
5 so we can put it anywhere.

6 MR. SMITH: We can do it.

7 THE COURT: So, 9:30 on November 7th, for a status
8 conference on where things stand with you getting your approval
9 from City Council.

10 Okay. I don't think I have anything else to cover with
11 each of you other than to thank you for continuing -- really,
12 each counsel, you continued to work professionally throughout,
13 meaning you were zealously litigating the trial and
14 simultaneously keeping professional discussions about resolving
15 the case. And that's exceedingly rare, to be able to do both
16 things at the same time.

17 And so I really do appreciate it. I'm sure your
18 clients do as well. I'm sure Judge Smith does. So thank you
19 all. If there are any hiccups along the way, please reach out to
20 me before that status conference. I'm here to help.

21 MR. DIPASQUALE: Thank you, Judge.

22 MR. SMITH: Thank you, Your Honor.

23 THE COURT: Thank you. We'll be in recess.


24 THE CLERK: All rise. Court is adjourned.

25 (Proceedings concluded at 1:23 p.m.)

CERTIFICATE

I, Jessica B. Cahill, court approved transcriber, do hereby certify that pursuant to 28 U.S.C. §753, the foregoing is a complete, true, and correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated: October 17, 2024



Jessica B. Cahill, CER/CET-708